

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

QUIWANECA SPIKES,

Plaintiff

Case No. 2:23-cv-02128-CDS-MDC

ORDER

v.

I. SIMPSON, et al.,

Defendants

On December 26, 2023, pro se plaintiff Quiwaneca Spikes, an inmate in the custody of the Nevada Department of Corrections, submitted a civil-rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Plaintiff later moved for leave to file a first amended complaint, arguing that she failed to include names for all persons who are liable for the alleged constitutional violations. (ECF No. 3). Plaintiff submitted a proposed first amended complaint with her motion. (ECF No. 3 at 9–20). This action is still in the screening stage, so Plaintiff’s original complaint has not yet been served and no responsive pleading or motion has been filed.

Plaintiff also filed an application to proceed *in forma pauperis* (“IFP”) with her motion to amend. (*Id.* at 21–25). Plaintiff’s IFP application is incomplete because she did not use the Court’s approved form and failed to include a financial certificate and an inmate trust fund accounts statement for the previous six-month period with it. Plaintiff notes on her IFP application that she sought her financial documents from prison officials on December 22, 2023. (ECF No. 3 at 21). For the reasons discussed below, the Court grants Plaintiff’s motion for leave to file a first amended complaint, disregards her original complaint, denies her incomplete IFP application, and grants her an extension of time to either pay the full \$405 filing fee for this action or file a new fully complete IFP application.

I. LEGAL STANDARDS

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). As of December 1, 2023, the fee

1 for filing a civil-rights action is \$405, which includes the \$350 filing fee and the \$55
 2 administrative fee. See 28 U.S.C. § 1914(b). “Any person who is unable to prepay the
 3 fees in a civil case may apply to the court for leave to proceed *in forma pauperis*.” Nev.
 4 Loc. R. LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate must
 5 submit **all three** of the following documents to the Court: (1) a completed **Application to**
 6 **Proceed in Forma Pauperis for Inmate**, which is pages 1–3 of the Court’s approved
 7 form, that is properly signed by the inmate twice on page 3; (2) a completed **Financial**
 8 **Certificate**, which is page 4 of the Court’s approved form, that is properly signed by both
 9 the inmate and a prison or jail official; and (3) a copy of the **inmate’s prison or jail trust**
 10 **fund account statement for the previous six-month period**. See 28 U.S.C. §
 11 1915(a)(1)–(2); Nev. Loc. R. LSR 1-2. *In forma pauperis* status does not relieve an inmate
 12 of his or her obligation to pay the filing fee, it just means that the inmate can pay the fee
 13 in installments. See 28 U.S.C. § 1915(b).

14 Additionally, Federal Rule of Civil Procedure 15(a) authorizes a party to amend its
 15 pleading “once as a matter of course[.]” if certain conditions are met, or otherwise “with
 16 the opposing party’s written consent or the court’s leave.” “The court should freely give
 17 leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). An amended
 18 complaint replaces the original, so an amended complaint must be complete in itself. See
 19 *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1989);
 20 *Rhodes v. Robinson*, 621 F.3d 1002, 1005 (9th Cir. 2010) (same).

21 **II. CONCLUSION**

22 It is therefore ordered that Plaintiff’s incomplete application to proceed *in forma*
 23 *pauperis* (ECF No. 3 at 21–25) is denied without prejudice.

24 It is further ordered that Plaintiff has **until Tuesday, March 19, 2024**, to either pay
 25 the full \$405 filing fee or file a fully complete application to proceed *in forma pauperis* with
 26 all three required documents: (1) a completed application with the inmate’s two signatures
 27 on page 3, (2) a completed financial certificate that is signed both by the inmate and the
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1 prison or jail official, and (3) a copy of the inmate's trust fund account statement for the
2 previous six-month period.

3 It is further ordered that Plaintiff's motion for leave to file a first amended complaint
4 (ECF No. 3) is granted. The Court will disregard Plaintiff's original complaint, and it will
5 screen her first amended complaint in the ordinary course.

6 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if
7 she fails to timely comply with this order. A dismissal without prejudice allows Plaintiff to
8 refile the case with the Court, under a new case number, when she can file a complete
9 application to proceed *in forma pauperis* or pay the required filing fee.

10 The Clerk of the Court is directed to send Plaintiff Spikes the approved form
11 application to proceed *in forma pauperis* for an inmate and instructions for the same.

12 The Clerk of the Court is further directed to detach and file Plaintiff's first amended
13 complaint (ECF No. 3 at 9–20).

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15 DATED THIS 19th day of January, 2024.

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19 Maximiliano D. Couvillier III
20 UNITED STATES MAGISTRATE JUDGE
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